

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

The Estate of Michael Cummisky,)
by Midfirst Trust Company,)
Special Administrator,)
Plaintiff,)

v.)

Case No. CIV-11-42-C

Estes Express Lines and Eddie)
Neal Wyatt,)
Defendants,)

and)

Estes Express Lines and)
Eddie Neal Wyatt,)
Third-Party Plaintiffs,)

v.)

Storey Wrecker Service, Inc.,)
Third-Party Defendant,)

and)

Cleveland Lease Service, Inc.,)
and Navigators Insurance)
Company,)
Intervenors/Plaintiffs,)

v.)

Estes Express Lines and Storey)
Wrecker Service, Inc.,)
Defendants.)

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COPY

The CONTINUATION of the Videotape Deposition
of JANICE BEACHAM taken on July 10th, 2012.

PAMELA B. STINCHCOMB, CSR #1544
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EXHIBIT

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1 you say per se, I just -- what do you mean when you
2 say the accident per se?

3 A. There was an accident, and due to
4 substantial costs that were involved in the accident,
5 combined with other factors, keeping in line with
6 other employment issues, Mr. Wyatt's position was
7 terminated with our company.

8 Q. Okay. These other factors, did any of them
9 include his actions in driving his truck that night?

10 A. No.

11 Q. You said the cost combined with other
12 factors. What are the other factors?

13 A. We look at the length of time that someone
14 has been involved -- been employed with us, the
15 length of time they have been driving in that
16 capacity, the type of employee they are.

17 Q. Last time we spoke you said that you had an
18 opinion about this accident, and I want to ask you
19 again. What is your opinion about the fault in this
20 the accident? Whose fault was the collision?

21 A. I believe it's an unfortunate situation
22 that occurred, that Eddie was faced with a sudden
23 emergency situation and did his best to control his
24 vehicle, that the Storey Wrecker was towing a vehicle
25 that they were not permitted to tow due to the size

1 and the time of night, that Mr. Cummisky was also
2 exceeding his hours of service and that he failed
3 to -- he failed to put out the proper hazard warning
4 triangles that he needed to by pulling off on the
5 shoulder, if he had fully pulled off safely to do so.

6 Q. Is there -- do you have any facts to show
7 that if Mr. Cummisky had not been over his hours of
8 service, that this would not have happened, in other
9 words, any facts to show that him being over the
10 hours of service he was so tired that he fell into
11 the road or that that somehow actually contributed to
12 causing this collision?

13 A. Do I have any facts?

14 Q. Yes, facts or evidence.

15 A. No. I do not have any evidence to that.

16 Q. Do you have any facts or evidence to show
17 that if this workover rig had not been oversized, if
18 it had been a smaller size, that that in any way
19 would have kept this collision from occurring?

20 A. The rig certainly would not have been -- he
21 would not have been towing the rig at that time and
22 possibly with him being over service, he was tired,
23 and he may not have made the wisest decision at the
24 time of being faced with his situation.

25 Q. What decision is that?

1 A. By pulling off where he did.

2 Q. Do you have any facts or evidence to
3 suggest that if Mr. Cummisky had put out any
4 reflective triangles or other warning devices that
5 that would have kept this collision from occurring?

6 A. If he had placed them out properly, then
7 Eddie Wyatt would have attempted -- he would have
8 seen -- he would have seen the units prior, and he
9 would have already changed lanes. And it's possible
10 that it could have kept it from being such a severe
11 accident as it was.

12 Q. Are you saying that if Mr. -- do you know
13 if Mr. Wyatt saw the workover rig or the tow truck
14 before the impact?

15 A. Yes.

16 Q. He did see it?

17 A. Yes.

18 Q. And are you -- are -- I don't want to put
19 words in your mouth. But are you suggesting if there
20 had been reflective triangles, that Mr. Wyatt would
21 have been able to better control his vehicle and
22 there would have been less damage?

23 A. He would have changed lanes sooner farther
24 down based on the way the triangles are to be laid
25 out, and that it is possible that there would have